

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

L.W., by and through parents and next friends, Samantha Williams and Brian Williams, et al.,)
Plaintiffs,)) No. 3:23-cv-00376
and)) JUDGE RICHARDSON
UNITED STATES OF AMERICA,)) JUDGE NEWBERN
Plaintiff-Intervenor,))
v.))
JONATHAN SKRMETTI et al.,))
Defendants.))

DEFENDANTS' RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY

This Court should not follow *K.C. v. Individual Members of the Medical Licensing Board of Indiana*, 2023 WL 4054086 (S.D. Ind. June 16), which obeys flawed Seventh Circuit precedent rather than *Dobbs*. *Cf. D.H. v. Williamson Cnty. Bd. of Educ.*, 2022 WL 16639994, at *10, *12 (M.D. Tenn. Nov. 2) (disagreeing with *Whitaker v. Kenosha Unified Sch. Dist.*, 858 F.3d 1034 (7th Cir. 2017), by declining to preliminarily enjoin enforcement of policies about sex-separating bathrooms because the plaintiff had “not shown a strong likelihood of success on the merits”).

But even if this Court repeats *K.C.*’s mistakes, *K.C.* does not support the notion that a district court may preliminarily enjoin all enforcement of a law statewide in a case that is not a putative class action. 2023 WL 4054086, at *14. The only reason the district court provided in *K.C.* for “us[ing] its equitable power to issue an injunction prohibiting Defendants from enforcing the enjoined portions of [the Indiana law] against any provider, as to any minor” was that the

plaintiffs’ “motion for class certification remains pending.” *Id.* (citing *Kartman v. State Farm Mut. Auto. Ins. Co.*, 634 F.3d 883, 886 (7th Cir. 2011)). In contrast, this case is not a class action. Thus, this Court’s equitable power does not extend to preliminarily enjoining enforcement of the Act statewide against parties and nonparties alike, regardless of whether healthcare providers are treating the minor Plaintiffs who requested such relief. *See Arizona v. Biden*, 40 F.4th 375, 396-97 (6th Cir. 2022) (Sutton, C.J., concurring) (“The law already has a mechanism for applying a judgment to third parties. That is the role of class actions.”).

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ADAM K. MORTARA (BPR# 40089)
Lawfair LLC
40 Burton Hills Blvd., Suite 200
Nashville, TN 37215
(773) 750-7154
mortara@lawfairllc.com

CAMERON T. NORRIS (BPR# 33467)
Convoy McCarthy PLLC
1600 Wilson Blvd., Suite 700
Arlington, VA 22209
(703) 243-9423
cam@consovoymccarthy.com
Counsel for Defendants

Respectfully submitted,

/s/ Clark L. Hildabrand
STEVEN J. GRIFFIN (BPR# 40708)
Assistant Attorney General
CLARK L. HILDABRAND (BPR# 38199)
Senior Counsel
TRENTON MERIWETHER (BPR# 38577)
Assistant Attorney General
RYAN N. HENRY (BPR# 40028)
Assistant Attorney General
BROOKE A. HUPPENTHAL (BPR# 40276)
Assistant Attorney General
Office of the Tennessee Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 253-5642
steven.griffin@ag.tn.gov
clark.hildabrand@ag.tn.gov
trenton.meriwether@ag.tn.gov
ryan.henry@ag.tn.gov
brooke.huppenthal@ag.tn.gov

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2023, the undersigned filed the foregoing document via this Court's electronic filing system, which sent notice of such filing to the following counsel of record:

COUNSEL OF RECORD	PARTY REPRESENTED
Stella Yarbrough Lucas Cameron-Vaughn Jeff Prepit ACLU Foundation of Tennessee P.O. Box 120160 Nashville, TN 37212 Tel.: 615-320-7142 syarbrough@aclu-tn.org lucas@aclu-tn.org jprepit@aclu-tn.org	Plaintiffs L.W., Samantha Williams, Brian Williams, John Doe, Jane Doe, James Doe, Ryan Doe, Rebecca Doe, and Susan N. Lacy
Joshua A. Block Chase Strangio American Civil Liberties Union Foundation 125 Broad Street, Floor 18 New York, NY 10004 Tel.: 212-549-2593 jblock@aclu.org cstrangio@aclu.org	
Sruti J. Swaminathan Lambda Legal Defense and Education Fund, Inc. 120 Wall Street, 19th Floor New York, NY 10005 Tel.: 212-809-8585 sswaminathan@lambdalegal.org	
Tara Borelli Lambda Legal Defense and Education Fund, Inc. 1 West Court Square, Ste. 105 Decatur, GA 30030 Tel.: 404-897-1880 tborelli@lambdalegal.org	

<p> Joseph L. Sorkin Dean L. Chapman, Jr. Kristen W. Chin Richard J. D'Amato Theodore James Salwen Akin Gump Strauss Hauer & Feld LLP One Bryant Park New York, NY 10036 Tel.: 212-872-1000 jsorkin@akingump.com dchapman@akingump.com kristen.chin@akingump.com rdamato@akingump.com jsalwen@akingump.com </p> <p> Elizabeth D. Scott Akin Gump Strauss Hauer & Feld LLP 2300 N. Field Street, Suite 1800 Dallas, TX 75201 Tel.: 214-969-2800 edscott@akingump.com </p> <p> Christopher J. Gessner David Bethea Akin Gump Strauss Hauer & Feld LLP Robert S. Strauss Tower 2001 K Street N.W. Washington, DC 20006 Tel.: 202-887-4000 cgessner@akingump.com dbethea@akingump.com </p>	
<p> Ellen B. McIntyre Rascoe Dean U.S. Attorney's Office for the Middle District of Tennessee 719 Church Street, Suite 300 Nashville, TN 37203 ellen.bowden2@usdoj.gov rasco.dean@usdoj.gov </p>	Plaintiff-Intervenor United States of America

Alyssa C. Lareau
United States Department of Justice
Federal Coordination and Compliance Section
950 Pennsylvania Avenue NW
4CON
Washington, DC 20530
(202) 305-2994
Alyssa.Lareau@usdoj.gov

Coty Montag
United States Department of Justice
Federal Coordination and Compliance Section
950 Pennsylvania Avenue NW
4CON
Washington, DC 20530
(202) 305-2222
Coty.Montag@usdoj.gov

Gloria Yi
United States Department of Justice
Federal Coordination and Compliance Section
950 Pennsylvania Avenue NW
4CON
Washington, DC 20530
(202) 616-3975
Gloria.Yi@usdoj.gov

Tamica Daniel
United States Department of Justice
Housing and Civil Enforcement Section
950 Pennsylvania Avenue NW
4CON
Washington, DC 20530
(202) 598-9636
Tamica.Daniel@usdoj.gov

/s/ Clark L. Hildabrand
CLARK L. HILDABRAND (BPR# 38199)
Senior Counsel

Counsel for Defendants